

# **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DIGITAL DRILLING DATA )  
SYSTEMS LLC )

Plaintiff, )

vs. )

Civil Action No. 4:15-cv-2172

PETROLINK SERVICES INC. & )  
LEE GEISER )

Defendants. )

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ORAL AND VIDEOTAPED DEPOSITION OF

PHOEUN PHA

DECEMBER 20, 2016

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ORAL AND VIDEOTAPED DEPOSITION OF PHOEUN PHA,  
produced as a witness at the instance of the Plaintiff,  
and duly sworn, was taken in the above-styled and  
numbered cause on the 20th day of December, 2016, from  
8:33 a.m. to 3:25 p.m., before Julie Scarborough, CSR in  
and for the State of Texas, reported by method of  
machine shorthand, at Winstead PC, 600 Travis Street,  
Suite 1100, Houston, Texas, pursuant to the Federal  
Rules of Civil Procedure and the provisions stated on  
the record or attached hereto.

A P P E A R A N C E S

FOR THE PLAINTIFF:

Mr. Kevin Leyendecker  
AHMAD, ZAVITSANOS, ANAIPAKOS,  
ALAVI & MENSING PC  
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Houston, Texas 77010  
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FOR THE DEFENDANTS:

Mr. Tom Van Arsdel  
Mr. Jason R. Bernhardt  
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tvanarsdel@winstead.com  
jbernhardt@winstead.com

ALSO PRESENT:

Mr. Nils Benson  
Mr. Lee Geiser  
Mr. Patrick Braun, Videographer

\* \* \* \* \*

1 THE VIDEOGRAPHER: We are on the record to  
2 begin the deposition. Today's date is December 20th,  
3 2016. The time is 8:33 a.m. Please wait for the court  
4 reporter to swear in the witness.

5 (Witness sworn.)

6 PHOEUN PHA,  
7 having been first duly sworn, testified as follows:

8 EXAMINATION

9 BY MR. LEYENDECKER:

10 Q. Would you please state your name, sir.

11 A. Phoeun Pha.

12 Q. Mr. Pha, you work for Petrolink Services, Inc.?

13 A. Yes, I currently work for Petrolink Services,  
14 Inc.

15 Q. Okay. You hesitated on that. Is there some  
16 reason you hesitated there?

17 A. I just wanted to make sure I answered correctly.

18 Q. Okay. You understand you're here today to give a  
19 deposition in a case involving Petrolink and DigiDrill?

20 A. Yes, I understand.

21 Q. All right. And have you ever given a deposition  
22 before?

23 A. No.

24 Q. If I ask you a question that you don't  
25 understand, would you do me the courtesy and let me know

1 A. When I used the word "open," that's what I was  
2 referring to.

3 Q. Okay.

4 A. My apologies.

5 Q. So you're saying Firebird is an open source  
6 program, right?

7 A. Yes, Firebird is an open source program.

8 Q. But DataLogger is not an open database, is it?

9 A. You mean DataLogger the software or --

10 Q. DataLogger -- the databases contained within  
11 DataLogger, those are not open databases, are they?

12 A. I would believe so. Because at the time we were  
13 looking at the material from the data -- from the  
14 DigiDrill website that says as such, that it was  
15 stored --

16 Q. Are you talking about something you read on  
17 the -- on the Internet that was on DigiDrill's website?

18 A. That's correct.

19 Q. Okay. That's not what I'm asking you.

20 A. Uh-huh.

21 Q. I'm asking you -- Step 1, which you've  
22 acknowledged, is that Firebird is an open source  
23 program --

24 A. That's correct.

25 Q. -- right?

1 Q. This is about the time that you -- you were  
2 making that rig visit on that Conoco rig?

3 A. That's about it, yeah.

4 Q. And Mr. Frolich says, "Team, for those  
5 interested, we have scanned the DigiDrill manual and I  
6 have uploaded the manual to Intranet server." Do you  
7 see that?

8 A. Yes.

9 Q. And that's a Petrolink, I take it -- Intralink  
10 (sic) meaning like a Petrolink server?

11 A. Yes.

12 Q. Okay. And so did you look at that DigiDrill  
13 manual as part of your efforts to decode the software?

14 A. I don't recall.

15 Q. Okay. By the way, Mr. Pha, do you know how the  
16 Firebird server came to reside on -- whether it's AIM's  
17 machine or Crescent's machine or any of the MWD  
18 companies' machine? Do you know how that actually  
19 happened?

20 A. At the time, no.

21 Q. Do you understand now how it happens?

22 A. I have a general idea, yes.

23 Q. Okay. What's your understanding?

24 A. My understanding is that DigiDrill's customer  
25 would either download the Firebird database server

1 either from the Firebird website or from any other  
2 website that has the Firebird database server available.

3 Q. Okay. You're saying that something that --  
4 that -- let's just take AIM, for example.

5 A. Uh-huh.

6 Q. Your understanding is today that AIM gets the  
7 DataLogger software, and then AIM goes and downloads the  
8 Firebird server to run in conjunction with that  
9 software?

10 A. Yes, as a requirement.

11 Q. So they're doing two things. They're downloading  
12 the DataLogger -- downloading the DataLogger software,  
13 and then they're going and deciding, "I'm going to  
14 download the Firebird software too"? That's your  
15 understanding?

16 A. Well, it's not an option, per se. It's a  
17 requirement for them to install the Firebird database  
18 server.

19 Q. Well, when you say "requirement," aren't you --  
20 aren't what you're really telling the jury is that  
21 when -- when somebody downloads the DataLogger software  
22 after they've purchased a license, that when they  
23 install the software, the software -- being the  
24 DataLogger software -- automatically installs the  
25 Firebird server as part of the installation of the

1 22nd, 2014, right?

2 A. Uh-huh, yes.

3 Q. "I'm meeting with the Directional Drilling  
4 Company on Thursday" -- that's DDC -- "and LEAM on  
5 Friday to discuss WITSML solution for our EOG Eagle Ford  
6 jobs."

7 A. Yes.

8 Q. "LEAM made the decision to bring their logging  
9 software rep" -- and you identified that as DigiDrill --

10 A. Yes.

11 Q. -- "to the meeting as well."

12 A. Yeah, this particular meeting.

13 Q. Okay. Then do me a favor and read the next  
14 sentence you wrote.

15 A. "I would like to note that we should not expect  
16 any 'pushback' from the DigiDrill rep (in a technical  
17 and possibly legal context), as they tout their software  
18 as being open. From their website ... 'All data  
19 generated by the DigiDrill system is stored in an open  
20 database file to give the user the ability to query the  
21 data using off-the-shelf software products.'"

22 Q. Okay. What -- so what's in quote is the -- the  
23 "All data generated by the DigiDrill system is stored in  
24 an open database file," right?

25 A. Yes.



1 server that requires a password and username to access  
2 the structure and organization and the data, do you  
3 think it's -- you think that there might be some people  
4 out there that would consider that to be a closed  
5 database?

6 A. It depends on their definition of "closed" or  
7 "open."

8 Q. Okay. And you never asked DigiDrill whether they  
9 thought their database was open or closed, did you?

10 A. We told them that we were planning to query data  
11 from it.

12 Q. Okay. Did you ever ask them whether they  
13 considered their database to be open or closed?

14 A. Did we ask, or did we tell?

15 Q. Did you ever ask them whether they considered  
16 their database, the one that you were writing your  
17 program to copy, did you ever ask them whether they  
18 considered it to be open or closed?

19 A. No, we didn't ask because their website mentions  
20 such.

21 Q. Okay. Did you say -- did you say to Mr. Erwin at  
22 this meeting with LEAM, "Hey, I just want to confirm up  
23 here, right? I'm telling my bosses you guys aren't  
24 going to have any legal or any pushback from what we're  
25 doing because of what's on your website, and I just want


## CHANGES AND SIGNATURE

PHOEUN PHA

DECEMBER 20, 2016

PAGE	LINE	CHANGE	REASON
6	18	"shorten" should be "shorthand"	Mistranscription
19	25	"coding" should be "coded"	Mistranscription
22	1	"dated" should be "bated"	Mistranscription
106	20	"DLWD" should be "LWD"	Mistranscription

1 I, PHOEUN PHA, have read the foregoing deposition and  
2 hereby affix my signature that same is true and correct,  
3 except as noted above.  
4  
5

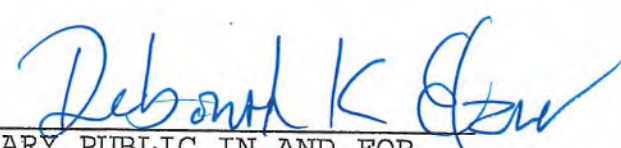
6   
7 PHOEUN PHA

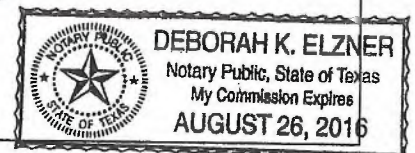
8 THE STATE OF TEXAS

9 COUNTY OF Harris )  
10

11 Before me, Deborah K Elzner, on this day  
12 personally appeared PHOEUN PHA, known to me (or proved  
13 to me under oath or through \_\_\_\_\_)  
14 (description of identity card or other document) to be  
15 the person whose name is subscribed to the foregoing  
16 instrument and acknowledged to me that they executed the  
17 same for the purposes and consideration therein  
18 expressed.

19 Given under my hand and seal of office this 6th day  
20 of February, 2017.  
21

22   
23 NOTARY PUBLIC IN AND FOR  
24 THE STATE OF TEXAS  
25



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REPORTER'S CERTIFICATION  
DEPOSITION OF PHOEUN PHA  
DECEMBER 20, 2016

I, Julie Scarborough, Certified Shorthand  
Reporter in and for the State of Texas, hereby certify  
to the following:

That the witness, PHOEUN PHA, was duly sworn by  
the officer and that the transcript of the oral  
deposition is a true record of the testimony given by  
the witness;

That the original deposition was delivered  
to \_\_\_\_\_;

That a copy of this certificate was served  
on all parties and/or the witness shown herein on  
\_\_\_\_\_.

That the amount of time used by each party at  
the deposition is as follows:

Mr. Leyendecker - 5 hours, 23 minutes

I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent:

\_\_\_X\_\_\_ was requested by the deponent or a party  
 before the completion of the deposition and that  
 signature is to be before any notary public and returned  
 within 30 days from date of receipt of the transcript.

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

\_\_\_\_\_ was not requested by the deponent or a party before the completion of the deposition.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me on this, the 5th day of  
January, 2017.

JULIE A. SCARBOROUGH, Texas CSR 4909  
Expiration Date: 12-31-17  
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